TAKE IT BACK '99
Managing for Global Producer Responsibility
Friday, May 14, 1999

Product Responsibility: Promoting Voluntary Action

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Recycling and Solid Waste Quiescent For Much of the 90's:
It's been awfully quiet in the US on the waste and recycling fronts for a few years now. Early in the 1990's, there were several legislative attempts to cause greater waste reduction and recycling, but for the most part they petered out. Strong markets for many recyclables in the middle 90's kept people's spirits up. Goals or mandates for recycling or waste diversion emanating from EPA and many States provided ongoing impetus to stimulate recycling.

But Change is in the Offing:

1. Recycling is leveling off: Recycling is still increasing, but only slowly - 1% per year.

2. State and Local Government Frustrated: Frustrations are increasing at the state and local government level:

* Local governments have worked hard to reduce waste generation and increase recycling, but they fear that their recycling programs may not be sustainable. They are worried about poor markets for the recyclables they collect. Local governments are concerned that they may not be able to support recycling of some commodities if markets for these materials don't improve (e.g., glass, plastic, mixed paper).

* Tensions between states regarding waste transport are on the rise. New York's reliance on out of state transport has raised the hackles of PA and VA both of which are threatening to limit imports of waste from NY and other states.

3. Currents from abroad lapping at our shores: Experiments with producer take back and producer pays mandates in Europe have matured into a full-fledged movement, with expansion beyond packaging into other product sectors such as electronics, cars, batteries and more. The producer responsibility philosophy is now taking root in Japan and you've heard about developments in Latin America, Hong Kong and Taiwan here at this conference. The OECD continues to research producer responsibility and will be coming out in the next year or so with a guidance document for governments interested in implementing producer responsibility. More and more frequently one hears that producer responsibility is becoming a trademark of environmental policy in developed countries.

4. Producer Responsibility Increasingly on the Agenda in the US: The factors above are combining to make producer responsibility an increasingly visible topic in the US. Just last month, the Municipal Waste Management Association (part of the US Conference of Mayors) sponsored a national panel discussion on producer responsibility at its annual meeting. A number of states are looking at producer responsibility as part of their agenda for improving waste management.

As certain producers make changes to the way they make and manage products in producer responsibility jurisdictions -- e.g., begin taking back products at end of life, incorporating recycled content into products and designing to use less material and make products more readily recyclable, others are asking whether the same things will happen here and if not, why not. For example,

* take backs of computers by manufacturers in Europe but not here ;
* use of recycled content in beverage containers in Europe, but not here;
* widespread use of returnable packaging systems and refillable bottles in Europe but not here.

What Will Happen Here with Producer Responsibility?

So what about the US? What will it take to keep recycling and waste reduction a priority in the US? What will be the upshot of the producer responsibility movement here in the US?

1. Spillover Effect of Foreign Producer Mandates: To some extent, some of the innovations spawned or hurried along by producer responsibility abroad will be felt here as a matter of course, without direct regulatory action in this country. This is especially true for products that are designed for a world wide market such as cars, appliances and electronics: producers will have to meet the most stringent standards (e.g., recycled content, design for recyclability, toxics reduction) where ever they are, with the result that foreign mandates will be reflected in some products made and sold in this US. This may be less true for other products such as packaging, which can be, and often are, tailored for specific markets.

2. **State and Local Experimentation Will Happen**: Based on our discussions with various stakeholders and our reading of the trade press, State and local action intended to drive or encourage more producer responsibility for waste will occur over the next few years. Producer responsibility is being viewed with increasing interest as one possible means to shore up sagging recycling programs and to drive greater waste prevention. In particular, frustration is growing over introduction of products into the marketplace that are not designed with recycling in mind and, as a result, increase the cost of existing curbside or drop-off recycling programs. So far this is especially true for electronics, and to a lesser extent with plastic beverage containers.

* Minnesota is most clearly considering producer responsibility for electronics, carpet and paint.
* California may be interested in producer responsibility for plastics in packaging.

* The City of Los Angeles recently criticized Miller Brewing for test marketing plastic beer bottles in the City without checking with local recycling officials about how these bottles would affect recycling.

But states are also looking at other policy options, some of which will more indirectly prompt greater producer responsibility for waste. For example, states are putting into place or considering disposal bans, special fees on products at the point of purchase and other state funded efforts to divert problem wastes from disposal and to encourage growth of an infrastructure to collect and recover these wastes. Massachusetts is banning disposal of cathode ray tubes and using state funds to encourage collection and demanufacturing of electronics. Florida is also considering a disposal ban. South Carolina is considering a special fee on sales of electronics to fund collection and recycling of electronics in that state.

* These and other states are also seriously looking at driving greener design for electronics through public procurement.

This experimentation will help us to figure out what kind of systems work for diverting particular products from disposal in the US. And these initiatives will send important messages to product producers about the need to design for recycling and to incorporate recycled materials into their products.

Still, everyone knows that there are limits to what state and local initiatives can bring about in terms of changing product systems. And is a patchwork of unique approaches and requirements from different states for the same products an efficient way to go about this? Clearly, no.

What Is EPA's Role?

Thus, policymakers at the State and local level, industry and environmental groups are looking to EPA for its reaction on this issue. What does EPA think about the producer responsibility phenomenon? What does EPA think should happen in this country? What does EPA think the states and local governments should do? These questions are increasingly being asked.

Let me be clear about one thing first. EPA has no foreseeable plans to seek mandates for producer responsibility along the lines of the programs taking shape in Europe. Our reasons are several:

Why We Don't Think <u>Federal</u> Producer Responsibility Mandates are the Answer:

1. EPA has no existing regulatory authority to mandate producer take back. So we would have to seek Federal legislation to enable such mandates.

2. Unlike climate change, and air and water quality issues that have galvanized a Federal response, there is no urgent environmental crisis creating political pressure for Federal action on waste reduction and recycling. There have been no unified calls from state and local governments for producer responsibility or any other mandates in the area of solid waste policy.

That said, issues of materials use and resource conservation clearly constitute primary components of any sustainability efforts.

3. There is no one clear answer way to drive more sustainable materials use and reuse in this country -- although we are aware that some have suggested that tax reforms would be the way to go. Producer responsibility may help in some cases, but may not be the most efficient way to achieve our ends.

Some Typical Problems with Producer Take back Mandates:

1. In Europe, recovery targets have tended to exceed the ability of the market to use the collected materials, affecting world markets for recyclables.

2. Producer take back mandates have resulted in inefficiencies, such as duplication of existing waste recovery infrastructures -- this imposes extra costs with no additional environmental benefit.

3. Businesses in Europe are complaining that there are exceedingly high transactions costs associated with producer take backs which do not benefit the environment. The costs of record keeping and reporting are reportedly exorbitant.

4. Mandates don't give producers any choice about take back -- they either have to pay for take back through a consortium or take back the product themselves. Contrast this with tax systems which give business a choice: 1) pay the tax or 2) make a change in your product to avoid or minimize the tax. In this case, businesses make the decision which is most cost-effective for them.

5. Producers combine to contract for recycling/waste management services: this results in reduced competition in the recycling/waste management field; concentration in this business can raise costs of recycling and waste management.

6. Mandated take back may produce trade barriers: various European efforts have been criticized as favoring local producers over non-local producers and importers.

Shared Responsibility is the Solution

With all of its problems, there is no doubt that producer responsibility mandates send a strong message that can have profound effects on the life cycle environmental impacts of product systems. I think it is fair to say that producer responsibility has really raised the stakes for Design for the Environment (DfE) and hastened, if not caused, some of the real advances in design for upgradeability and recyclability in several major product systems including electronics, autos, carpet and packaging. As such, producer responsibility is an important political and economic shift in the history of waste management and DfE.

So why not lead the charge for mandated producer responsibility in the US? While EPA thinks that it may be worthwhile for states to experiment with policies that will drive producers to rethink their product's design and the life cycle environmental impact of their products, we are not sure that producer responsibility mandates are the best national policy recipe to reducing waste and increasing recycling.

Instead, EPA supports the principle of shared product responsibility or "Extended Product Responsibility" as first articulated by the President's Council for Sustainable Development in 1996. This principle recognizes that all actors in the product chain – from suppliers, manufacturers, distributors, retailers, consumers, recyclers and the waste management community – share responsibility for reducing the life cycle environmental impacts of products. Under this principle, the greater the ability of the actor to influence life cycle impacts of the product system, the greater the responsibility of that actor.

We think that product systems are complicated and different enough that, for each product system, a unique menu of policies will be needed to minimize that system's environmental footprint in the most cost-efficient manner.

But in most cases, we think you need a **combination of four things** working together to achieve optimal results:

First. Incentives for producers to design and manufacture their products so as to reduce environmental impacts from beginning to end and to make a market for recycled materials. This could include producer take back or cost shifting in limited instances. But there are other ways to encourage producers to rethink their products such as: disposal bans; green procurement; reducing regulatory barriers to product recovery; information disclosure policies (such as TRI); taxes on materials consumption balanced by subsidies for using secondary materials – all of these can drive companies to design their products for recyclability, reduce their materials use and emissions and encourage recovery of products at end of life.

Second: You need **incentives for consumers** to choose environmentally preferable products and to reuse, recycle or properly dispose of products at end of their life. This can include variable rate pricing for garbage which makes the cost of throwing things out visible to consumers and encourages them to recycle; higher disposal fees, possibly including any increased costs associated with recycling to be added to tip fees; special disposal fees or taxes at point of purchase for hard to handle materials; or deposit/refunds for returning products for disposal at end of life (many states already do this for car batteries and tires).

Third: You need **incentives and know-how for municipalities** or others responsible for managing waste to make waste and recycling programs more efficient; for example, research on efficient collection and processing programs (many curbside recycling programs are still relatively young and can be quite inefficient with multiple pick-ups and inefficient use of collection vehicles); education on advantageous waste disposal and recycling contracting methods that help shield municipalities from the vagaries of commodities markets; and education on how to value the economic benefits to communities of diverting waste from disposal. And

Fourth: You need **improved communication** between product manufacturers, consumers, recyclers and government to identify where the barriers are to increased recovery and to develop "win-win" solutions.

These are but a few of the overlapping and mutually supportive policies that drive more efficient materials use, resource conservation and waste reduction nationwide. To summarize and repeat,

When manufacturers **design products** to reduce materials use and enhance recyclability and **make a market** for secondary materials, when communities get more skilled at managing recycling and recovery programs and when consumers do their part by choosing recycled and recyclable products and recycle their wastes, then the goals of producer responsibility mandates are satisfied without directly shifting the management of end of life products to producers – which is the hallmark of European-style producer responsibility. Yes, it it more complicated to orchestrate policies that operate on three separate but linked chains in the product systems, but this is how we believe the most efficient systems solution can be achieved.

Why Do We Think A Voluntary Approach to Shared Responsibility Will Work?

So how do we propose to put our idea of Extended Product Responsibility into practice? The best way to do this, we believe, is to create a process where the major actors in the product chain work together voluntarily to design a solution that works for everyone.

What makes us believe that collaborative effort can yield such results? We think that in this climate, voluntary action will be spurred by "enlightened self interest."

* As producer responsibility mandates spread in the world market, industry will be more inclined to invest in cooperative approaches that can forestall the spread of mandates at home and create a model for other countries to consider as an alternative to producer take back or producer pays.

* Also, although solid waste is a far less urgent topic in the US than it is to some of our trading partners with smaller land mass and denser populations, it is <u>still</u> a problem.

* And it will grow in urgency as large cities like New York run out of landfill space and cannot site new waste management facilities close to home or when they encounter resistance from other states who do not want to take any more of NY's waste.

As these pressures rise, so too will the willingness of industry to explore cooperative solutions.

Elements of a Voluntary Shared Responsibility Program

What would be the primary elements of a voluntary approach to shared product responsibility that would be designed to provide incentives for positive change on the part of producers? While EPA has not, at this time, decided to launch a comprehensive program on

Extended Product Responsibility at the national level, we have thought about it quite a lot. First, we would draw upon elements of our ongoing voluntary programs in combination with new elements.

The steps we would use in formulating such a program could include:

1. Identifying priority product systems;

2. Using the convening power of EPA to assemble the necessary players in the product's life cycle;

3. Identifying existing problems in product reuse and recyclability;

4. Soliciting input from these players to establish goals and assess options;

5. Issuing challenges and measuring progress toward achievement of these goals; AND

6. Providing assistance to the various players in meeting the challenges through education, tools, research and technical assistance, and demonstration projects.

Examples of Voluntary Efforts Underway

Let me give you a flavor of some of the voluntary, multi-stakeholder projects underway and planned that are moving particular product categories in the direction of less waste, more recycling and less overall environmental impact:

1. Electronics: As I have said, end of life electronics are the subject of growing attention by both state, local and federal government. At the national level, multi-stakeholder efforts include several design for the environment projects ranging from reducing toxics emissions from manufacturing of printed wiring boards to analysis of the comparative environmental impacts of cathode ray tubes and flat panel displays.

The Common Sense Initiative at EPA, no longer an active program, created a lasting legacy in the area of electronics by establishing the Electronics Recycling and Recovery Roundtable. This roundtable is a multi-stakeholder panel representing industry, recyclers, state and local governments and environmentalists who share a common desire to increase the recovery and recycling of electronics at end of life. This Roundtable sponsors a very successful annual conference on electronics recycling which has proved to be a key opportunity for industry, government and recyclers to network on efforts to reduce this waste stream. And the Roundtable serves as a forum for identifying issues and seeking solutions.

Other federal efforts include the Federal Electronics Asset Management Task Force which is focused on finding ways to remanufacture and recycle end of life electronics from Federal agencies and to explore ways that the Federal government can use its procurement clout

to encourage greener design and greater recovery of electronics.

2. Packaging: EPA is contributing funding for a major demonstration project on reusable transport packaging systems. This project is a cooperative effort by United Parcel Service, the Center for Clean Products and Clean Technologies, and the Alliance for the Environment. These three groups are evaluating together the environmental, cost and performance attributes of various reusable transport packaging systems. The goal is to help UPS and other users of transport packaging to choose a system that best balances environmental, performance and economic requirements.

Another cooperative project concerning packaging is the Plastic Redesign Project. For the past few years, EPA and several states have been funding a multi-state effort to develop design guidelines for plastic bottles. The purpose of this project is to make plastic beverage bottles more economically recyclable by local governments, but to do so in a way that still gives manufacturers a great deal of leeway in how they design such bottles to meet performance and marketing needs. Late last year, the project issued guidelines which have been endorsed by several major consumer products companies, including Clorox, S.C. Johnson and Procter and Gamble. The next phase of this project will seek more comprehensive input on these guidelines from the recycling community and from local government, as well as further commitments from the consumer products companies to implement these guidelines. We hope that these guidelines and those of the Association of Postconsumer Plastics Recyclers can be harmonized so that product manufacturers have a single set of guidelines to work with.

3. Paper: The "Greening of the Mail" project has, for the past several years brought together a number of stakeholders interested in paper and the environment, to identify barriers to increasing recovery of direct mail and other mixed paper. The participants include the United States Post Office, the American Forest and Paper Association, the Direct Marketing Association and EPA. The project just issued a comprehensive report which makes numerous design and materials management recommendations to reduce waste in direct mail and to increase the recyclability of mail. Much work remains to be done but, through cooperation, breakthroughs such as design of adhesives that do not compromise recycling are being achieved that will help to increase the recyclability and the market value of mixed paper.

Closing

In closing, EPA has not staked out take back mandates for producers as part of the next wave of environmental improvement. That said, however, we still have much farther to go as a nation to reduce the environmental footprint of products and to develop truly sustainable product systems.

To reach these goals will require a team approach: one that is focused on reducing the environmental impacts of products at each step of the life cycle, including impacts of products at the end of their useful life. We think that the groundwork has been laid for a team approach, in no small part thanks to the revolutionary changes being sought in Europe, for a cooperative approach to work in this country. We look forward to working with all of you to make this happen!